

to NO<sub>x</sub> under § 51.123(aa) of this chapter, are: Indiana, and Ohio.

(e) Notwithstanding paragraphs (a) and (b) of this section, such paragraphs are not applicable as they relate to sources in the State of Minnesota as of December 3, 2009, except as provided in § 52.1240(b).

(f) Notwithstanding any provisions of paragraphs (a) through (d) of this section, subparts AA through II and AAAA through IIII of part 97 of this chapter, and any State's SIP to the contrary:

(1) With regard to any control period that begins after December 31, 2011,

(i) The provisions in paragraphs (a) through (d) of this section relating to NO<sub>x</sub> annual or ozone season emissions shall not be applicable; and

(ii) The Administrator will not carry out any of the functions set forth for the Administrator in subparts AA through II and AAAA through IIII of part 97 of this chapter;

(2) The Administrator will not deduct for excess emissions any CAIR NO<sub>x</sub> allowances or CAIR NO<sub>x</sub> Ozone Season allowances allocated for 2012 or any year thereafter;

(3) By November 7, 2011, the Administrator will remove from the CAIR NO<sub>x</sub> Allowance Tracking System accounts all CAIR NO<sub>x</sub> allowances allocated for a control period in 2012 and any subsequent year, and, thereafter, no holding or surrender of CAIR NO<sub>x</sub> allowances will be required with regard to emissions or excess emissions for such control periods; and

(4) By November 7, 2011, the Administrator will remove from the CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System accounts all CAIR NO<sub>x</sub> Ozone Season allowances allocated for a control period in 2012 and any subsequent year, and, thereafter, no holding or surrender of CAIR NO<sub>x</sub> allowances will be required with regard to emissions or excess emissions for such control periods.

[72 FR 62343, Nov. 2, 2007, as amended at 74 FR 48862, Sept. 25, 2009; 74 FR 56726, Nov. 3, 2009; 75 FR 72962, Nov. 29, 2010; 76 FR 48353, Aug. 8, 2011]

**§ 52.36 What are the requirements of the Federal Implementation Plans (FIPs) for the Clean Air Interstate Rule (CAIR) relating to emissions of sulfur dioxide?**

(a) The Federal CAIR SO<sub>2</sub> Trading Program provisions of part 97 of this chapter constitute the Clean Air Interstate Rule Federal Implementation Plan provisions for emissions of sulfur dioxide (SO<sub>2</sub>). Each State that is described in § 51.124(c) of this chapter is subject to a finding by the Administrator that the State failed to submit a State Implementation Plan (SIP) to satisfy the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act for the PM<sub>2.5</sub> NAAQS. The provisions of subparts AAA through IIII of part 97 of this chapter, regarding the CAIR SO<sub>2</sub> Trading Program, apply to sources in each of these States that has not promulgated a SIP revision approved by the Administrator as correcting that deficiency. Following promulgation of an approval by the Administrator of a State's SIP as meeting the requirements of CAIR for PM<sub>2.5</sub> relating to SO<sub>2</sub> under § 51.124 of this chapter, these provisions of part 97 of this chapter will no longer apply to sources in that State, except to the extent the Administrator's approval of the SIP is partial or conditional or unless such approval is under § 51.124(r) of this chapter.

(b) The provisions of this section do not invalidate or otherwise affect the obligations of States, emissions sources, or other responsible entities with respect to all portions of plans approved or promulgated under this part or the obligations of States under the requirements of §§ 51.124 and 51.125 of this chapter.

(c) The States with SIPs approved by the Administrator as meeting the requirements of CAIR for PM<sub>2.5</sub> relating to SO<sub>2</sub> under § 51.124(o) of this chapter are: Indiana, and Ohio

(d) Notwithstanding paragraph (a) of this section, such paragraph is not applicable as it relates to sources in the State of Minnesota as of December 3, 2009.

(e) Notwithstanding any provisions of paragraphs (a) through (c) of this section, subparts AAA through IIII of part 97 of this chapter and any State's SIP to the contrary:

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(1) With regard to any control period that begins after December 31, 2011,

(i) The provisions of paragraphs (a) through (e) of this section relating to SO<sub>2</sub> emissions shall not be applicable; and

(ii) The Administrator will not carry out any of the functions set forth for the Administrator in subparts AAA through III of part 97 of this chapter; and

(2) The Administrator will not deduct for excess emissions any CAIR SO<sub>2</sub> allowances allocated for 2012 or any year thereafter.

[72 FR 62343, Nov. 2, 2007, as amended at 74 FR 48863, Sept. 25, 2009; 74 FR 56726, Nov. 3, 2009; 75 FR 72962, Nov. 29, 2010; 76 FR 48354, Aug. 8, 2011]

### **§ 52.37 What are the requirements of the Federal Implementation Plans (FIPs) to issue permits under the Prevention of Significant Deterioration requirements to sources that emit greenhouse gases?**

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met to the extent the plan, as approved, of the states listed in paragraph (b) of this section does not apply with respect to emissions of the pollutant GHGs from certain stationary sources. Therefore, the provisions of § 52.21 except paragraph (a)(1) are hereby made a part of the plan for each state listed in paragraph (b) of this section for:

(1) Beginning January 2, 2011, the pollutant GHGs from stationary sources described in § 52.21(b)(49)(iv), and

(2) beginning July 1, 2011, in addition to the pollutant GHGs from sources described under paragraph (a)(1) of this section, stationary sources described in § 52.21(b)(49)(v).

(b) Paragraph (a) of this section applies to:

(1) Arizona, Pinal County; Rest of State (Excludes Maricopa County, Pima County, and Indian Country);

(2) Arkansas;

(3) Florida;

(4) Idaho;

(5) [Reserved]

(6) Wyoming;

(7) Jefferson County, Kentucky.

(c) For purposes of this section, the “pollutant GHGs” refers to the pollut-

ant GHGs, as described in § 52.21(b)(49)(i).

[75 FR 82254, Dec. 30, 2010, as amended at 76 FR 2589, Jan. 14, 2011; 76 FR 9664, Feb. 22, 2011]

### **§ 52.38 What are the requirements of the Federal Implementation Plans (FIPs) under the Transport Rule (TR) relating to emissions of nitrogen oxides?**

(a)(1) The TR NO<sub>x</sub> Annual Trading Program provisions set forth in subpart AAAAA of part 97 of this chapter constitute the TR Federal Implementation Plan provisions that relate to annual emissions of nitrogen oxides (NO<sub>x</sub>).

(2) The provisions of subpart AAAAA of part 97 of this chapter apply to the sources in the following States and Indian country located within the borders of such States: Alabama, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

(3) Notwithstanding the provisions of paragraph (a)(1) of this section, a State listed in paragraph (a)(2) of this section may adopt and include in a SIP revision, and the Administrator will approve, as TR NO<sub>x</sub> Annual allowance allocation provisions replacing the provisions in § 97.411(a) of this chapter with regard to the State and the control period in 2013, a list of TR NO<sub>x</sub> Annual units and the amount of TR NO<sub>x</sub> Annual allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(i) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2010;

(ii) The total amount of TR NO<sub>x</sub> Annual allowance allocations on the list must not exceed the amount, under § 97.410(a) of this chapter for the State and the control period in 2013, of TR NO<sub>x</sub> Annual trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;